



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 8

#### SENTENCING POWERS AND MANDATORY ETC SENTENCES

#### CHAPTER 2

#### CONSECUTIVE SENTENCES

#### 188 Consecutive custodial sentences

- (1) This section applies where a court passes a qualifying custodial sentence on a person in respect of a service offence.
- (2) In this section “qualifying custodial sentence” means—
  - (a) a determinate sentence of imprisonment;
  - [<sup>F1</sup>(aa) a determinate sentence of detention in a young offender institution;]
  - (b) a determinate sentence of detention under section 209; or
  - (c) a sentence of detention under [<sup>F2</sup>section 254 of the Sentencing Code] passed as a result of section [<sup>F3</sup>221A] of this Act.
- (3) The court may direct—
  - (a) that the sentence shall take effect from the end of any other qualifying custodial sentence that the court passes on the person on the same occasion;
  - (b) that the sentence shall take effect from the end of any sentence to which this paragraph applies that was passed on the person on a previous occasion; or
  - (c) that the sentence shall take effect from the date when the person is (or but for the direction would be) released from custody under any sentence to which this paragraph applies that was passed on him on a previous occasion.
- (4) Subsection (3)(b) applies to any of the following sentences, other than one from which the person has already been released early under Chapter 6 of Part 12 of the 2003 Act [<sup>F4</sup>or under Part 2 of the Criminal Justice Act 1991]—

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- (a) a determinate sentence of imprisonment passed in respect of a service offence or by a civilian court in England and Wales;
  - [<sup>F5</sup>(aa) a determinate sentence of detention in a young offender institution passed in respect of a service offence or by a civilian court in England and Wales;]
  - (b) a determinate sentence of detention under section 209 of this Act or [<sup>F6</sup>section 250 of the Sentencing Code];
  - [<sup>F7</sup>(ba) a sentence of detention under section 254 of the Sentencing Code (whether or not passed as a result of section 221A of this Act);]
  - (c) a sentence of detention under section <sup>F8</sup>... 228 of the 2003 Act (whether or not passed as a result of section <sup>F9</sup>... 222 of this Act).
- [<sup>F10</sup>(4A) The sentences referred to in subsection (4)(a) and (aa) are to be taken to include a custodial order under—
- (a) section 71AA of the Army Act 1955 or the Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957, or
  - (b) paragraph 10 of Schedule 5A to the Army Act 1955 or the Air Force Act 1955 or paragraph 10 of Schedule 4A to the Naval Discipline Act 1957.]
- (5) Subsection (3)(c) applies to any of the following sentences (wherever passed)—
- (a) a determinate sentence of imprisonment [<sup>F11</sup>or detention in a young offender institution not falling within paragraph (a) or (aa)] of subsection (4);
  - (b) a sentence not falling within paragraph (b) [<sup>F12</sup>, (ba)] or (c) of subsection (4) but corresponding to a sentence so falling.
- (6) In subsection (1) “court” does not include a civilian court.

#### Textual Amendments

- F1** S. 188(2)(aa) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(2)(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F2** Words in s. 188(2)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(2)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F3** Word in s. 188(2)(c) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 22 para. 23(2)(b)**; S.I. 2012/2906, art. 2(t)
- F4** Words in s. 188(4) inserted (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 25 para. 11**; S.I. 2009/1028, art. 2(b)
- F5** S. 188(4)(aa) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(3)(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F6** Words in s. 188(4)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(3)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F7** S. 188(4)(ba) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(3)(c)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F8** Words in s. 188(4)(c) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(3)(d)(i)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F9** Words in s. 188(4)(c) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(3)(d)(ii)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F10** S. 188(4A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(4)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F11** Words in s. 188(5)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(5)(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F12** Word in s. 188(5)(b) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 15(5)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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#### **Modifications etc. (not altering text)**

- C1** S. 188(4)(c) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1, 5(2)(3)** (with [s. 5\(9\)](#)); [S.I. 2012/1236](#), **reg. 2**

#### **Commencement Information**

- I1** S. 188 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 188 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### **189 Consecutive sentences of service detention**

- (1) A court which passes a sentence of service detention on a person may direct that the sentence shall take effect from the end of any other sentence of service detention—
- (a) that has been passed on him on a previous occasion; or
  - (b) that the court passes on him on the same occasion.
- (2) In subsection (1) “court” does not include the Summary Appeal Court.
- (3) Where an officer or the Summary Appeal Court awards a person a term of service detention, the officer or court may direct that the award shall take effect from the end of any other sentence of service detention that has been passed on him on a previous occasion.
- (4) This section is subject to section 244 (limit on combined term of sentences of service detention).

#### **Commencement Information**

- I3** S. 189 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I4** S. 189 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

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